

OCT 19 2005**NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****FOR THE NINTH CIRCUIT****UNITED STATES OF AMERICA,****Plaintiff - Appellee,****v.****MATIAS GALLO-CHAVEZ, akas Chuy,
John Doe, #1,****Defendant - Appellant.****No. 03-50528****D.C. No. CR-98-00508-LGB-04****MEMORANDUM***

**Appeal from the United States District Court
for the Central District of California
Lourdes G. Baird, District Judge, Presiding**

Submitted October 11, 2005**

Before: T.G. NELSON, WARDLAW and TALLMAN, Circuit Judges.

**Matias Gallo-Chavez appeals from his guilty-plea conviction and sentence
for conspiracy to launder monetary instruments, in violation of 18 U.S.C.
§§ 1956(h), 1956(a)(1), 2.**

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), counsel for Gallo-Chavez has filed a brief stating there are no grounds for relief, and a motion to withdraw as counsel of record. Gallo-Chavez has not filed a pro se supplemental brief.

We have conducted an independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 83 (1988). We affirm the conviction. Because appellant was sentenced under the then-mandatory Sentencing Guidelines, and we cannot reliably determine from the record whether the sentence imposed would have been materially different had the district court known that the Guidelines were advisory, we would remand to the sentencing court to answer that question, and to proceed pursuant to *United States v. Ameline*, 409 F.3d 1073, 1084 (9th Cir. 2005) (en banc). *See United States v. Moreno-Hernandez*, 419 F.3d 906, 916 (9th Cir. 2005) (extending *Ameline*'s limited remand procedure to cases involving non-constitutional error).

Because the sentencing judge is no longer available in this case, however, we vacate the sentence and remand for a full resentencing hearing. *See United States v. Sanders*, 421 F.3d 1044, 1051-52 (9th Cir. 2005).

Counsel's motion to withdraw as counsel on appeal is denied.

**CONVICTION AFFIRMED, SENTENCE VACATED and
REMANDED.**